

2013 MAR 26 AM 11:39

## UNITED STATES DEPARTMENT OF AGRICULTURE

## BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:

Docket No.

13- 0197

Joseph D. Graber and Rhoda Graber,

Respondents.

Complaint

There is reason to believe that the respondents named herein have willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

## I

A. Joseph Graber and Rhoda Graber, hereinafter referred to as the respondents, are individuals whose mailing address is 9258 E 875 N, Odon, IN 47562.

B. The respondents, at all times material herein, were licensed and operating as a dealer as defined in the Act and the regulations.

## II

A. On April 27, 2011, APHIS inspected respondent's premises and found that the respondents had failed to provide adequate veterinary care to a male Basset Hound, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

## III

A. On May 23, 2012, APHIS inspected respondent's premises and records and found that the respondents had failed to provide adequate veterinary care to 2 male Shih-Tzus, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

## IV

A. On August 21, 2012, APHIS inspected respondent's premises and records and found that the respondents had failed to provide adequate veterinary care to at least 4 dogs resulting in at least one of them being euthanized, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On August 21, 2012, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities surfaces were not constructed and maintained in a manner that allowed them to be readily cleaned and sanitized, or removed and replaced when worn or soiled (9 C.F.R. § 3.1(c); and
2. Primary enclosures were not sanitized often enough to prevent excessive accumulation of dirt, debris, food waste, excreta, and other disease hazards (9 C.F.R. § 3.11(b)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C.

20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq. (1993)). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:
  - (a) Requiring the respondents to cease and desist from violating the Act and the regulations and standards issued thereunder;
  - (b) Assessing civil penalties against the respondents in accordance with section 19 of the Act (7 U.S.C. § 2149); and

- (c) Revoking the respondents' license under the Act.

Done at Washington, D.C.  
this 21<sup>st</sup> day of March, 2013



*Acting* Administrator  
Animal and Plant Health  
Inspection Service

Brian T. Hill  
Attorney for Complainant  
Office of the General Counsel  
United States Department of  
Agriculture  
Washington, D.C. 20250-1400  
Telephone (202) 720-9237